

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

LEE DAVID QUINTON,)
)
 Plaintiff,)
)
 v.) No. CIV-09-130-FHS-KEW
)
 MICHAEL ASTRUE, Commissioner)
 Social Security Administration)
)
 Defendant.)

OPINION AND ORDER

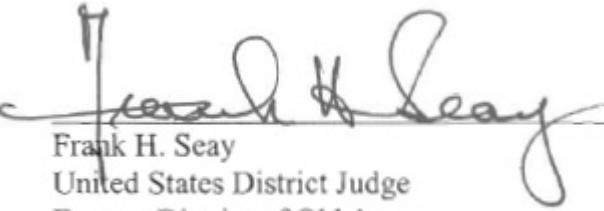
Plaintiff's counsel filed a Motion For Attorney Fees Pursuant to 42 U.S.C. § 406(b) (Dkt. No. 27) on May 6, 2010. Judgment was entered in favor of Plaintiff on April 29, 2010, following Plaintiff's receipt of a fully favorable decision and notice of award in this sentence six remand proceeding under 42 U.S.C. § 405(g). Rule 54 (d)(2)(B) of the Federal Rules of Civil Procedure requires attorney fees motions to be filed "no later than 14 days after entry of judgment." Counsel's motion is therefore timely.

Plaintiff's counsel has moved the Court to approve an attorney fee award under 42 U.S.C. § 406(b)(1) in the amount of \$10,542.63 for counsel's representation of Plaintiff before the Court. Counsel's requested fees do not exceed either the amount contracted for in the parties' contingency agreement or the 25% limitation of section 406(b). Neither the Commissioner nor the Plaintiff have presented any objection to Plaintiff's counsel's request for fees in the amount of \$10,542.63. The Commissioner

has filed an informative response on the various points of law to be considered, but has declined to take a position on the reasonableness of counsel's fee request. Plaintiff has not filed any response or objection. The Court has conducted an independent review of the record, including the contingency-fee contract between counsel and Plaintiff, and counsel's documented time records, and concludes counsel's motion is timely and that the requested attorney fee amount of \$10,542.63 is reasonable under the facts and circumstances of this case given the nature and quality of the representation and the results achieved. See Gisbrecht v. Barnhart, 535 U.S. 789, 807-809 (2002).

Consequently, Plaintiff's counsel's Motion For Attorney Fees Pursuant to 42 U.S.C. § 406(b) (Dkt. No. 27) is granted in the amount of \$10,542.63. Pursuant to Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986), Plaintiff's counsel is directed to refund to Plaintiff the smaller amount of fees (\$3,740.80) previously awarded under EAJA.

It is so ordered this 4th day of June, 2010.



Frank H. Seay
United States District Judge
Eastern District of Oklahoma